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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No.

2010-326

11 **LINDA SUZANNE MOORE,**
12 **a.k.a. Linda Suzanne Rosa**
13 **845 Lakeshore Drive**
Redwood City, CA 94065
14 **Registered Nurse License No. RN 258947**

ACCUSATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about July 31, 1975, the Board of Registered Nursing issued Registered Nurse
22 License Number RN 258947 to Linda Suzanne Moore, a.k.a. Linda Suzanne Rosa (Respondent).
23 The Registered Nurse License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on December 31, 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section **2750** of the Business and Professions Code (Code) provides, in pertinent part,
2 that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section **2764** of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
8 Code, the Board may renew an expired license at any time within eight years after the expiration.

9 **STATUTORY AND REGULATORY PROVISIONS**

10 6. Section **56.10(a)** of the Code states, in pertinent part:

11 (a) No provider of health care, health care service plan, or contractor shall disclose medical
12 information regarding a patient of the provider of health care or an enrollee or subscriber of a
13 health care service plan without first obtaining an authorization, except as provided in subdivision
14 (b) or (c).

15 7. Section **651** of the Code states, in pertinent part:

16 (a) It is unlawful for any person licensed under this division or under any initiative act
17 referred to in this division to disseminate or cause to be disseminated any form of public
18 communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image
19 for the purpose of or likely to induce, directly or indirectly, the rendering of professional services
20 or furnishing of products in connection with the professional practice or business for which he or
21 she is licensed. A "public communication" as used in this section includes, but is not limited to,
22 communication by means of mail, television, radio, motion picture, newspaper, book, list or
23 directory of healing arts practitioners, Internet, or other electronic communication.

24 (b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a
25 statement or claim that does any of the following:

26 (1) Contains a misrepresentation of fact.

27 (2) Is likely to mislead or deceive because of a failure to disclose material facts.

28 (3)(A) Is intended or is likely to create false or unjustified expectations of favorable results,

1 including the use of any photograph or other image that does not accurately depict the results of
2 the procedure being advertised or that has been altered in any manner from the image of the
3 actual subject depicted in the photograph or image.

4 ...
5 (5) Contains other representations or implications that in reasonable probability will cause
6 an ordinarily prudent person to misunderstand or be deceived.

7 ...
8 (8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive
9 because of a failure to disclose material facts.

10 ...
11 (f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide
12 mistake of fact shall be a defense to this subdivision, but only to this subdivision.

13 (g) Any violation of this section by a person so licensed shall constitute good cause for
14 revocation or suspension of his or her license or other disciplinary action.

15 ...
16 8. Section **652** of the Code states:

17 Violation of this article in the case of a licensed person constitutes unprofessional conduct
18 and grounds for suspension or revocation of his or her license by the board by whom he or she is
19 licensed, or if a license has been issued in connection with a place of business, then for the
20 suspension or revocation of the place of business in connection with which the violation occurs.
21 The proceedings for suspension or revocation shall be conducted in accordance with Chapter 5
22 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and
23 each board shall have all the powers granted therein. However, in the case of a licensee of the
24 State Department of Health Services, the proceedings shall be conducted in accordance with
25 Section 110171 of the Health and Safety Code. In addition, any violation constitutes a
26 misdemeanor as to any and all persons offering, delivering, receiving, accepting, or participating
27 in any rebate, refund, commission, preference, patronage dividend, unearned discount, or
28 consideration, whether or not licensed under this division, and is punishable by imprisonment in

1 the county jail not exceeding six months, by a fine not exceeding two thousand five hundred
2 dollars (\$2,500), or by both the imprisonment and fine.

3 9. Section **2052** of the Code states:

4 (a) Notwithstanding Section 146, any person who practices or attempts to practice, or who
5 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or
6 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,
7 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition
8 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended
9 certificate [to practice medicine] or without being authorized to perform the act pursuant to a
10 certificate obtained in accordance with some other provision of law is guilty of a public offense,
11 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the state
12 prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either
13 imprisonment.

14 (b) Any person who conspires with or aids or abets another to commit any act described in
15 subdivision (a) is guilty of a public offense, subject to the punishment described in that
16 subdivision.

17 (c) The remedy provided in this section shall not preclude any other remedy provided by
18 law.

19 10. Section **2725** of the Code states:

20 (a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing
21 is a dynamic field, the practice of which is continually evolving to include more sophisticated
22 patient care activities. It is the intent of the Legislature in amending this section at the 1973-74
23 session to provide clear legal authority for functions and procedures that have common
24 acceptance and usage. It is the legislative intent also to recognize the existence of overlapping
25 functions between physicians and registered nurses and to permit additional sharing of functions
26 within organized health care systems that provide for collaboration between physicians and
27 registered nurses. These organized health care systems include, but are not limited to, health
28 facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the

1 Health and Safety Code, clinics, home health agencies, physicians' offices, and public or
2 community health services.

3 (b) The practice of nursing within the meaning of this chapter [the Nursing Practice Act]
4 means those functions, including basic health care, that help people cope with difficulties in daily
5 living that are associated with their actual or potential health or illness problems or the treatment
6 thereof, and that require a substantial amount of scientific knowledge or technical skill, including
7 all of the following:

8 (1) Direct and indirect patient care services that ensure the safety, comfort, personal
9 hygiene, and protection of patients; and the performance of disease prevention and restorative
10 measures.

11 (2) Direct and indirect patient care services, including, but not limited to, the
12 administration of medications and therapeutic agents, necessary to implement a treatment, disease
13 prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician,
14 dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety
15 Code.

16 (3) The performance of skin tests, immunization techniques, and the withdrawal of human
17 blood from veins and arteries.

18 (4) Observation of signs and symptoms of illness, reactions to treatment, general behavior,
19 or general physical condition, and (A) determination of whether the signs, symptoms, reactions,
20 behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based
21 on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or
22 changes in treatment regimen in accordance with standardized procedures, or the initiation of
23 emergency procedures.

24 (c) 'Standardized procedures,' as used in this section, means either of the following:

25 (1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2
26 (commencing with Section 1250) of Division 2 of the Health and Safety Code through
27 collaboration among administrators and health professionals including physicians and nurses.
28

1 (2) Policies and protocols developed through collaboration among administrators and
2 health professionals, including physicians and nurses, by an organized health care system which
3 is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of
4 Division 2 of the Health and Safety Code.

5 The policies and protocols shall be subject to any guidelines for standardized procedures
6 that the Division of Licensing of the Medical Board of California and the Board of Registered
7 Nursing may jointly promulgate. If promulgated, the guidelines shall be administered by the
8 Board of Registered Nursing.

9 (d) Nothing in this section shall be construed to require approval of standardized
10 procedures by the Division of Licensing of the Medical Board of California, or by the Board of
11 Registered Nursing.

12 (e) No state agency other than the board may define or interpret the practice of nursing for
13 those licensed pursuant to the provisions of the chapter, or develop standardized procedures or
14 protocols pursuant to this chapter, unless so authorized by this chapter, or specifically required
15 under state or federal statute. "State agency" includes every state office, officer, department,
16 division, bureau, board, authority, and commission.

17 11. Section 2726 of the Code states:

18 Except as otherwise provided herein, this chapter confers no authority to practice medicine
19 or surgery.

20 12. Section 2761 of the Code states, in pertinent part:

21 The board may take disciplinary action against a certified or licensed nurse or deny an
22 application for a certificate or license for any of the following:

23 (a) Unprofessional conduct, which includes, but is not limited to, the following:

24 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
25 functions.

26 ...

27 (3) The use of advertising relating to nursing which violates Section 17500.

28 ...

1 (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
3 Act] or regulations adopted pursuant to it.

4 . . .

5 (j) Holding oneself out to the public or to any practitioner of the healing arts as a 'nurse
6 practitioner' or as meeting the standards established by the board for a nurse practitioner unless
7 meeting the standards established by the board pursuant to Article 8 (commencing with Section
8 2834) or holding oneself out to the public as being certified by the board as a nurse anesthetist,
9 nurse midwife, clinical nurse specialist, or public health nurse unless the person is at the time so
10 certified by the board.

11 . . .

12 13. Section **2762** of the Code states, in pertinent part:

13 In addition to other acts constituting unprofessional conduct within the meaning of this
14 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
15 chapter to do any of the following:

16 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
17 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
18 administer to another, any controlled substance as defined in Division 10 (commencing with
19 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
20 defined in Section 4022.

21 . . .

22 14. Section **17500** of the Code states:

23 It is unlawful for any person, firm, corporation or association, or any employee thereof with
24 intent directly or indirectly to dispose of real or personal property or to perform services,
25 professional or otherwise, or anything of any nature whatsoever or to induce the public to enter
26 into any obligation relating thereto, to make or disseminate or cause to be made or disseminated
27 before the public in this state, or to make or disseminate or cause to be made or disseminated
28 from this state before the public in any state, in any newspaper or other publication, or any

1 advertising device, or by public outcry or proclamation, or in any other manner or means
2 whatever, including over the Internet, any statement, concerning that real or personal property or
3 those services, professional or otherwise, or concerning any circumstance or matter of fact
4 connected with the proposed performance or disposition thereof, which is untrue or misleading,
5 and which is known, or which by the exercise of reasonable care should be known, to be untrue or
6 misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so
7 made or disseminated any such statement as part of a plan or scheme with the intent not to sell
8 that personal property or those services, professional or otherwise, so advertised at the price
9 stated therein, or as so advertised. Any violation of the provisions of this section is a
10 misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a
11 fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and
12 fine.

13 15. California Code of Regulations, title 16, section **1442**, states:

14 As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
15 the standard of care which, under similar circumstances, would have ordinarily been exercised by
16 a competent registered nurse. Such an extreme departure means the repeated failure to provide
17 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
18 situation which the nurse knew, or should have known, could have jeopardized the client's health
19 or life.

20 16. California Code of Regulations, title 16, section **1443**, states:

21 As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
22 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
23 exercised by a competent registered nurse as described in Section 1443.5.

24 17. California Code of Regulations, title 16, section **1443.5** states:

25 A registered nurse shall be considered to be competent when he/she consistently
26 demonstrates the ability to transfer scientific knowledge from social, biological and physical
27 sciences in applying the nursing process, as follows:

28 (1) Formulates a nursing diagnosis through observation of the client's physical condition

1 and behavior, and through interpretation of information obtained from the client and others,
2 including the health team.

3 (2) Formulates a care plan, in collaboration with the client, which ensures that direct and
4 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
5 for disease prevention and restorative measures.

6 (3) Performs skills essential to the kind of nursing action to be taken, explains the health
7 treatment to the client and family and teaches the client and family how to care for the client's
8 health needs.

9 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
10 subordinates and on the preparation and capability needed in the tasks to be delegated, and
11 effectively supervises nursing care being given by subordinates.

12 (5) Evaluates the effectiveness of the care plan through observation of the client's physical
13 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
14 communication with the client and health team members, and modifies the plan as needed.

15 (6) Acts as the client's advocate, as circumstances require, by initiating action to improve
16 health care or to change decisions or activities which are against the interests or wishes of the
17 client, and by giving the client the opportunity to make informed decisions about health care
18 before it is provided.

19 18. California Code of Regulations, title 16, section **1444**, states:

20 A conviction or act shall be considered to be substantially related to the qualifications,
21 functions or duties of a registered nurse if to a substantial degree it evidences the present or
22 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
23 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

24 (a) Assaultive or abusive conduct including, but not limited to, those violations listed in
25 subdivision (d) of Penal Code Section 11160.

26 (b) Failure to comply with any mandatory reporting requirements.

27 (c) Theft, dishonesty, fraud, or deceit.

28 (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the

1 Penal Code.

2 19. California Code of Regulations, title 16, section **1474** states:

3 Following are the standardized procedure guidelines jointly promulgated by the Medical
4 Board of California and by the Board of Registered Nursing:

5 (a) Standardized procedures shall include a written description of the method used in
6 developing and approving them and any revision thereof.

7 (b) Each standardized procedure shall:

8 (1) Be in writing, dated and signed by the organized health care system personnel
9 authorized to approve it.

10 (2) Specify which standardized procedure functions registered nurses may perform and
11 under what circumstances.

12 (3) State any specific requirements which are to be followed by registered nurses in
13 performing particular standardized procedure functions.

14 (4) Specify any experience, training, and/or education requirements for performance of
15 standardized procedure functions.

16 (5) Establish a method for initial and continuing evaluation of the competence of those
17 registered nurses authorized to perform standardized procedure functions.

18 (6) Provide for a method of maintaining a written record of those persons authorized to
19 perform standardized procedure functions.

20 (7) Specify the scope of supervision required for performance of standardized procedure
21 functions, for example, immediate supervision by a physician.

22 (8) Set forth any specialized circumstances under which the registered nurse is to
23 immediately communicate with a patient's physician concerning the patient's condition.

24 (9) State the limitations on settings, if any, in which standardized procedure functions may
25 be performed.

26 (10) Specify patient record keeping requirements.

27 (11) Provide for a method of periodic review of the standardized procedures.

28 ///

DANGEROUS DRUGS/CONTROLLED SUBSTANCES

20. Section **4021** of the Code states:

"Controlled substance" means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

21. Section **4022** of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device. . .

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

22. Section **4051(a)** of the Code states:

(a) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under this chapter.

23. Section **4060** of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, certified nurse-midwife, nurse practitioner,

1 or physician assistant, when in stock in containers correctly labeled with the name and address of
2 the supplier or producer. Nothing in this section authorizes a certified nurse-midwife, a nurse
3 practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices.

4 24. **Botox** is an injectable neuro-toxin. It is a dangerous drug within the meaning of
5 Business and Professions Code section 4022.

6 25. **Depo-Estradiol** is an injectable form of estrogen. It is a dangerous drug within the
7 meaning of Business and Professions Code section 4022.

8 26. **Levulan** is a potent photosensitizer and is a dangerous drug within the meaning of
9 Business and Professions Code section 4022.

10 27. **Restylane** is an injectable form of hyaluronic acid. It is a medical device and/or
11 dangerous drug within the meaning of Business and Professions Code section 4022.

12 28. **Levulan Kerastick** is a device for the application of aminolevulinic acid to skin for
13 light sensitization and treatment. It is a dangerous drug within the meaning of Business and
14 Professions Code section 4022.

15 **COST RECOVERY**

16 29. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

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23 **Radiant Skin Care and Rejuvenate Medical Skincare Clinic**

24 30. From on or about April, 2004, until on or about June 24, 2004, in Atherton,
25 California and in Portola Valley, California, Respondent worked as a Registered Nurse for a
26 business called Rejuvenate Medical Skincare Clinic (hereinafter "RMSC"). While so employed,
27 Respondent performed medical procedures on patients including, but not limited to, the injection
28

1 and administration of Botox, Restylane, Depo-Estradiol and other dangerous drugs, and treatment
2 of patients with a laser device.

3 31. While employed by RMSC, Respondent was not under the supervision of a physician.

4 32. Prior to beginning her employment at RMSC, Respondent worked as a registered
5 nurse at Radiant Skincare (hereinafter "Radiant") in Menlo Park, California. In April, 2004,
6 when Respondent left Radiant to work at RMSC, she took boxes of Botox, Restylane and Depo-
7 Estradiol from Radiant and brought them to RMSC. No physician authorized Respondent to
8 possess these medications or prescribed the administration of the medications.

9 33. On or about June 24, 2004, when Respondent left RMSC, she took boxes of Botox
10 and Restylane with her. No physician authorized Respondent to possess these medications or
11 prescribed the administration of the medications.

12 34. From on or about April, 2004, until on or about June 24, 2004, while Respondent
13 worked as a Registered Nurse for RMSC, Respondent fraudulently used names, provider
14 numbers and other information pertaining to Jean W. Gillon, M.D., and Janett Segal, M.D., in
15 order to obtain Botox, Depo Estradiol and Restylane for use in Respondent's practice at RMSC.
16 Doctors Gillon and Segal did not authorize Respondent to use their names or other information in
17 order to obtain, possess or use these drugs.

18 35. April, 2004, when Respondent left Radiant to work at RMSC, she took identifying
19 information about Radiant's patients and provided the information to RMSC. Respondent had an
20 RMSC employee enter all of the patient information into RMSC's computer. None of the
21 Radiant patients whose information was taken had authorized disclosure of their records.

22 36. On or about June 24, 2004, when Respondent left RMSC, she took boxes of patient
23 records with her and used them in the formation of a new business enterprise. None of the RMSC
24 patients whose information was taken had authorized disclosure of their records.

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Unprofessional Conduct -- Unlawful Practice of Medicine)

27 37. Respondent is subject to disciplinary action under sections 2052 and 2761(a) of the
28 Code in that she acted unprofessionally by engaging in the unlicensed practice of medicine, as set

1 forth above in paragraphs 30 through 31.

2 **SECOND CAUSE FOR DISCIPLINE**

3 (Gross Negligence/Incompetence)

4 38. Respondent is subject to disciplinary action under sections 2761(a) of the Code in that
5 she acted with gross negligence and incompetence, as set forth above in paragraphs 30 through
6 36.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Unlawful Possession/Furnishing of Dangerous Drugs)

9 39. Respondent is subject to disciplinary action under section 2762(a) of the Code in that
10 she obtained and possessed dangerous drugs and prescribed and furnished dangerous drugs to
11 clients, as set forth above in paragraphs 30 through 34.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 (Fraudulently Obtaining Dangerous Drugs)

14 40. Respondent is subject to disciplinary action under sections 2761(a) and 2762(a) of the
15 Code and under California Code of Regulations, Title 16, section 1444, in that she engaged in
16 unprofessional conduct and engaged in dishonesty, fraud and deceit in obtaining dangerous drugs
17 for the treatment of patients while employed at RMSC, as set forth above in paragraphs 30
18 through 34.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 (Unlawful Use of Patient Records)

21 41. Respondent is subject to disciplinary action under section 2761(a) of the Code and
22 under section 56.10(a) of the Civil Code, in that she disclosed patient information without first
23 obtaining authorization from said patients, as set forth above in paragraphs 30 through 36.

24 **SEVENTH CAUSE FOR DISCIPLINE**

25 (Unprofessional Conduct)

26 42. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
27 she acted unprofessionally, as set forth above in paragraphs 30 through 36.

28 ///

Re:Juvenate Clinic

43. From on or about April, 2004, until the present, Respondent has worked at Re:Juvenate, a Medical Skin Care Clinic (the clinic, which has had slightly differing names at various times, is hereinafter referred to as "Re:Juvenate") in Redwood City, California and in San Carlos, California. Re:Juvenate is a business jointly owned by Respondent and by Sherna Madan, a physician. The business provides skin care services.

44. Re:Juvenate advertises in various ways including, but not limited to, direct mail, yellow pages advertisements and internet websites. The advertisements are false, misleading and deceptive in that they convey the impression that Linda Moore lawfully provides treatment within the scope of her licensure as a Registered Nurse and that such treatment is adequately supervised by a physician.

45. Re:Juvenate's website is located at <http://www.rejuvenateskincare.net/>. The opening page of the website contains the following statement: "Safety First: Each procedure is provided by a licensed practitioner [sic] in a medically-supervised setting." The website claims, in another location, that its mission is "[t]o provide individualized medical skincare options to our clients to improve aesthetic presence thereby increasing self-esteem." The website also states: "At Rejuvenate Skincare clinic, all skincare is medically supervised by Dr. Sherna Madan, M.D. Dr. Madan is a board-certified Internal Medicine and Endocrinologist. She has a private practice and is a nationally renowned presenter in her field of expertise."

46. While working at Re:Juvenate, Respondent has performed laser treatments and injected Botox and Restylane, along with other medications, to patients. Respondent has diagnosed and treated Re:Juvenate patients without prior or contemporaneous supervision by or consultation with a physician and without adequate standardized procedures in place that would authorize Respondent to make such diagnosis and treatment decisions.

47. On or about March, 2006, patient A.G. sought treatment at Re:Juvenate after having received a postcard in the mail from Re:Juvenate and having seen television and internet advertisements for the clinic. From March through August, 2006, at Re:Juvenate, Respondent administered Restylane to patient A.G.'s face, and treated the skin on patient A.G.'s upper arms

1 with a laser. Patient A.G. was not examined by a physician prior to, during or after said
2 treatments. Although patient A.G. had consented only to the administration of one half-syringe of
3 Restylane, Respondent administered more than three syringes of the medication to patient A.G.'s
4 face. The laser treatment that Respondent performed on patient A.G. resulted in permanent long
5 dark scars on patient A.G.'s arms.

6 48. On or about late 2004 or early 2005, patient K.N. received a postcard solicitation
7 from Re:Juvenate. Beginning on or about March 4, 2005, Respondent examined patient K.N. at
8 Re:Juvenate and subsequently performed laser treatments on her. Patient K.N. was not examined
9 by a physician prior to, during or after said treatments. The laser treatment left a blister on patient
10 K.N.'s chin, which ultimately became a permanent indented scar.

11 49. On or about October 20, 2006, while working at Re:Juvenate, Respondent examined
12 patient C.M. and recommended the administration of Restylane in the corners of patient C.M.'s
13 mouth. Although patient C.M. had stated that she was allergic to certain anesthetics, and had
14 stated that she would not consent to the injection of anesthetics, Respondent injected an anesthetic
15 into two locations on the inside of patient C.M.'s mouth. The injections caused extreme pain to
16 patient C.M. and resulted in lasting nerve damage in patient C.M.'s sinus area. Respondent then
17 injected Restylane and Botox to patient C.M.'s mouth, cheek, nose and eye areas. Respondent
18 injected over three milliliters of Restylane, despite the fact that patient C.M. had only consented
19 to the application of a small amount of Restylane around her mouth. Patient C.M. was not
20 examined by a physician prior to or during said treatment.

21 50. On or about April, 2008, patient M.M. visited Re:Juvenate¹ for consultation regarding
22 brown spots on her chest. Respondent examined patient M.M. and provided her with two tubes of
23 Levulan, a potent photosensitizer, to be applied at home. Patient M.M. was not examined by a
24 physician prior to, during or after this treatment. Respondent subsequently sold additional tubes
25 of Levulan to patient M.M. and advised her to continue using it, even after patient M.M. had
26 complained that the medication had caused a burn-like red mark. Levulan is not approved for the

27 _____
28 ¹ This visit occurred at the San Carlos office of Re:Juvenate.

1 use for which Respondent provided it, and its use on patient M.M. was inappropriate. As a result
2 of the application of Levulan, patient M.M. developed an extreme irritant phototoxic reaction.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 (Unprofessional Conduct -- Unlawful Practice of Medicine)

5 51. Respondent is subject to disciplinary action under sections 2052 and 2761(a) of the
6 Code in that she acted unprofessionally by engaging in the unlicensed practice of medicine, as set
7 forth above in paragraphs 43 through 50.

8 **NINTH CAUSE FOR DISCIPLINE**

9 (Gross Negligence/Incompetence)

10 52. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
11 she acted with gross negligence and incompetence, as set forth above in paragraphs 43 through
12 50.

13 **TENTH CAUSE FOR DISCIPLINE**

14 (Unfair Business Practices)

15 53. Respondent is subject to disciplinary action under sections 651, 652, 2761(a)(3) and
16 17500 of the Code in that she acted unprofessionally by engaging in advertising and statements
17 relating to her practice of nursing which are false, misleading and deceptive, as set forth above in
18 paragraphs 43 through 50.

19 **ELEVENTH CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct)

21 54. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
22 she acted unprofessionally, as set forth above in paragraphs 43 through 50.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number RN 258947, issued to
27 Linda Suzanne Moore, a.k.a. Linda Suzanne Rosa;

28 2. Ordering Linda Suzanne Moore, a.k.a. Linda Suzanne Rosa, to pay the Board of

1 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
2 pursuant to Business and Professions Code section 125.3;

3 3. Taking such other and further action as deemed necessary and proper.

4 DATED: _____

1/12/10

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RM
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant